

Message Text

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E.O. 11652: NA

TAGS: ENRG, PBOR, PORG, EG, US

SUBJECT: ISRAELI PETROLEUM-RELATED ACTIVITY IN OCCUPIED
EGYPTIAN TERRITORY

REF: STATE 115979

1. FOLLOWING IS TEXT OF MAY 10 LETTER FROM ISRAELI PERMREP
HERZOG ADDRESSED TO SYG WALDHEIM AND LATER CIRCULATED AS
UNGA DOCUMENT A/33/99 DATED MAY 15.

2. "I HAVE THE HONOR TO REFER TO THE LETTER OF 12 APRIL
1978 FROM THE PERMANENT REPRESENTATIVE OF EGYPT, ENCLOSING
A LETTER DATED 4 APRIL 1978 FROM THE MINISTER FOR FOREIGN
AFFAIRS OF EGYPT ABOUT THE UTILIZATION OF OIL RESOURCES IN
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SINAI (A/33/79 AND CORR.1).

--THE GOVERNMENT OF ISRAEL WISHES TO STATE ONCE AGAIN THAT,
UNDER INTERNATIONAL LAW, ISRAEL IS ENTITLED TO EXPLORE FOR
AND UTILIZE PUBLICLY-OWNED OIL RESOURCES IN SINAI.

--IN HIS LETTER, THE EGYPTIAN MINISTER FOR FOREIGN AFFAIRS

ADMITS THAT ISRAEL HAS USUFUCTUARY POWERS WITH RESPECT TO IMMOVABLE PROPERTY IN OCCUPIED EGYPTIAN TERRITORY. WITHOUT ELABORATING ALL THE LEGAL ASPECTS OF THE ISSUE, THE GOVERNMENT OF ISRAEL TAKES NOTE THAT THE LETTER OF THE EGYPTIAN MINISTER FOR FOREIGN AFFAIRS FAILS TO CITE THE NEAR UNANIMOUS INTERPRETATION WHEREBY AN OCCUPYING POWER MAY WORK PUBLICLY-OWNED MINES. THIS INTERPRETATION APPEARS, INTER ALIA, IN BOTH THE BRITISH AND UNITED STATES MILITARY MANUALS.

--IT IS LOGICAL THAT SUCH UTILIZATION, IF PERMITTED, MAY BE CARRIED OUT NOT ONLY BY A GOVERNMENT AGENCY, BUT ALSO BY A CONCESSIONAIRE. THIS IS REFLECTED IN THE SEPARATE OPINION OF JUDGE SEFERIADES AT THE PERMANENT COURT OF INTERNATIONAL JUSTICE IN THE LIGHTHOUSE CASE (P.C.I.J. SERIES A/B NO. 62). WHO STATED:

--QUOTE THE OCCUPYING STATE, WHICH HAS THE ADMINISTRATION AND USUFRUCT OF PUBLIC PROPERTY IN THE OCCUPIED TERRITORY, ALONE HAS POWER TO GRANT CONCESSIONS CAPABLE OF APPLICATION WHILST THE OCCUPATION CONTINUES. UNQUOTE

--AS WE UNDERSTAND IT, THE BACKGROUND TO THE EGYPTIAN LETTER IS A COMMERCIAL DISPUTE BETWEEN TWO OIL COMPANIES. ONE OF THE COMPANIES WAS GRANTED A CONCESSION BY THE EGYPTIAN AUTHORITIES AFTER 1967 AND THE OTHER COMPANY WAS GRANTED A CONCESSION BY THE ISRAEL MILITARY AUTHORITIES. UNCLASSIFIED

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ISRAEL HOLDS THAT THE CONCESSION GRANTED BY THE EGYPTIAN AUTHORITIES AFTER 1967 IS NOT VALID.

--IT IS UNDERSTANDABLE THAT THE TWO COMMERCIAL COMPANIES INVOLVED MAY SEEK TO DISPUTE THE ISSUE, AND ISRAEL IS AWARE OF EGYPT'S REASON FOR ESPOUSING THE CASE OF ONE OF THE COMPANIES. NONE THE LESS, ISRAEL MAINTAINS STRONGLY THAT IT IS NOT LEGITIMATE TO BRING A COMMERCIAL DISPUTE OF THIS KIND BEFORE THE UNITED NATIONS AND THAT, IN THE CIRCUMSTANCES, THE LETTER OF THE EGYPTIAN MINISTER FOR FOREIGN AFFAIRS WAS UNWARRANTED.

--I HAVE THE HONOR TO REQUEST THAT THIS LETTER BE CIRCULATED AS AN OFFICIAL DOCUMENT OF THE GENERAL ASSEMBLY, UNDER ITEM 12 OF THE PRELIMINARY LIST, IN CONNECTION WITH ASSEMBLY RESOLUTION 32/161 ENTITLED "PERMANENT SOVEREIGNTY OVER NATIONAL RESOURCES IN THE OCCUPIED ARAB TERRITORIES". VANCE

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